



**IT IS ORDERED as set forth below:**

**Date: November 3, 2023**

A handwritten signature in black ink, appearing to read "James R. Sacca".

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**James R. Sacca**  
**U.S. Bankruptcy Court Judge**

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	
	)	CHAPTER 7
TIP TOP TUX, LLC,	)	
	)	
Debtor	)	CASE NO. 23-57716-jrs
	)	
ALTERMAN-TOWN CENTER, LLC,	)	
	)	CONTESTED MATTER
Movant,	)	
	)	
v.	)	
	)	
JASON PETTIE, Chapter 7 Trustee,	)	
	)	
Respondent	)	

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**ORDER ON MOTION SEEKING RELIEF UNDER 11 U.S.C. § 365**

Before the Court is the *Motion to (1) Compel Compliance with 11 U.S.C. § 365(d)(3), (2) Reject Lease of Nonresidential Real Property, and (3) Grant Related Relief, Including Allowance*

of *Administrative Expense* (the “Motion”)(Doc. No. 76). In the Motion, Alterman-Town Center, LLC (“Movant”), sought certain relief related to a lease (the “Lease”) between Movant and Tip Top Tux, LLC (“Debtor”) relating to Space 6, Suite 150, in the Town Center Mall Shops located in Kennesaw, Georgia (the “Location”), including rejection of the Lease.

Subsequent to the filing of the Motion, Jason L. Pettie, chapter 7 trustee for the bankruptcy estate of Debtor (“Trustee”) filed his *Omnibus Motion of the Chapter 7 Trustee for Entry of an Order (I) Authorizing (A) the Rejection of Certain Unexpired Leases Nunc Pro Tunc to the Date of the Rejection Motion and (B) the Abandonment of any Remaining Property at the Rejected Locations, and (II) Granting Related Relief* (the “Rejection Motion”)(Doc. 78), which sought, among other things, rejection of the Lease effective October 12, 2023, and abandonment of any property remaining at the Location. Movant consents to the relief sought in the Rejection Motion.

The Motion came to be heard on November 2, 2023. There being no opposition to entry of this Order, it is

ORDERED that the relief sought in the Motion relating to rejection of the Lease is moot by virtue of Trustee’s rejection of the Lease; and it is further

ORDERED that Movant is authorized to apply its Security Deposit (as defined in the Motion) to its prepetition rejection damages claim; and it is further

ORDERED that Movant may file a separate application for allowance of an administrative expense for postpetition rent, and Movant’s rights with respect thereto are preserved.

[END OF DOCUMENT]

**Preparer’s Signature on Next Page**

**Prepared and presented by:**

LAMBERTH, CIFELLI,  
ELLIS & NASON, P.A.  
*Counsel for Movant*

By: /s/ G. Frank Nason, IV  
G. Frank Nason, IV  
Georgia Bar No. 535160  
6000 Lake Forrest Drive, N.W., Ste. 435  
Atlanta, GA 30328  
(404) 262-7373

**Identification of parties to be served:**

G. Frank Nason, IV, Lamberth, Cifelli, Ellis & Nason, P.A., 6000 Lake Forrest Drive, NW, Suite 435, Atlanta, GA 30328

Office of the United States Trustee, 362 Richard Russell Building, 75 Ted Turner Drive, SW, Atlanta, GA 30303

Jason L. Pettie, Taylor English Duma LLP, 1600 Parkwood Circle, SE, Suite 2100, Atlanta, GA 30339

United States Bankruptcy Court  
Northern District of Georgia

In re:  
Tip Top Tux, LLC  
Suit Up, Inc.  
Debtors

Case No. 23-57716-jrs  
Chapter 7

## CERTIFICATE OF NOTICE

District/off: 113E-9  
Date Rcvd: Nov 03, 2023

User: bncadmin  
Form ID: pdf429

Page 1 of 5  
Total Noticed: 20

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 05, 2023:

Recip ID	Recipient Name and Address
db	+ Tip Top Tux, LLC, 500 Floyd Blvd., Sioux City, IA 51101-2122
aty	+ Anthony R. Santiago, Walter Haverfield LLP, 1301 E. Ninth Street, Suite 3500, Cleveland, OH 44114-1821
aty	+ Erin P Severini, 3300 Great American Tower, 301 East Fourth Street, Cincinnati, OH 45202-4245
aty	+ Gregory J. Pappas, Pappas Hayden Westberg & Jackson PC, 7500 W 110th Street, Ste 110, Overland Park, KS 66210-2476
aty	+ Lauren D. Roglen, Ballard Spahr LLP, 919 N. Market Street, 11th Floor, Wilmington, DE 19801-3023
aty	+ Margaret A. Vesper, Ballard Spahr, 919 N. Market Street, 11th Floor, Wilmington, DE 19801-3023
aty	+ Mark S. Fusco, Walter Haverfield LLP, 1301 E. Ninth Street, Suite 3500, Cleveland, OH 44114-1821
aty	+ W. Steven Bryant, Locke Lord LLP, 300 Colorado Street, Ste 2100, Austin, TX 78701-4890
	G.Frank Nason, IV, Lamberth, Cifelli, Ellis & Nason, P.A., Suite 435, Atlanta, GA 30328
jadmdb	+ Heights, Inc., 140 James Aldrige Blvd, Atlanta, GA 30336-2100
	+ Jason L. Pettie, Taylor English Duma LLP, 1600 Parkwood Circle, SE, Suite 2100, Atlanta, GA 30339-2119
cr	+ Southlake Equities, LLC, 934 Glenwood Avenue SE, Suite 110, Atlanta, GA 30316-1876
jadmdb	+ Suit Up, Inc., 500 Floyd Blvd., Sioux City, IA 51101-2122
jadmdb	+ Tuxedo Holdings CLE, Inc., 500 Floyd Blvd, Sioux City, IA 51101-2122
jadmdb	+ Tuxedo Holdings MIN, Inc., 500 Floyd Blvd., Sioux City, IA 51101-2122
jadmdb	+ Tuxedo Holdings, Inc., 500 Floyd Blvd., Sioux City, IA 51101-2122
cr	+ UG2 Solon, OH, LP, United Growth Attn Mark Swerling, 1000 Fourth Street, Suite 290, San Rafael, CA 94901, UNITED STATES 94901-3126
jadmdb	+ Xedo, Inc., 500 Floyd Blvd, Sioux City, IA 51101-2122

TOTAL: 18

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
cr	+ Email/PDF: acg.acg.ebn@aisinfo.com	Nov 03 2023 20:36:33	Ally Bank, AIS Portfolio Services, LLC, 4515 N Santa Fe Ave. Dept. APS, Oklahoma City, OK 73118-7901
	+ Email/Text: ustpreion21.at.ecf@usdoj.gov	Nov 03 2023 20:28:00	Office of the United States Trustee, 362 Richard Russell Building, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3315

TOTAL: 2

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

District/off: 113E-9

User: bncadmin

Page 2 of 5

Date Rcvd: Nov 03, 2023

Form ID: pdf429

Total Noticed: 20

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Nov 05, 2023

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 3, 2023 at the address(es) listed below:

Name	Email Address
Austin B. Hayden	on behalf of Creditor Hawthorne OP LLC ahayden@phwjlaw.com, gpappas@phwjlaw.com
Benjamin F Baker	on behalf of Creditor Southlake Equities LLC foss@downslawllc.com
Benjamin R Keck	on behalf of Creditor KFLP Equity 3 LLC bkeck@kecklegal.com, 2411851420@filings.docketbird.com,9222034420@filings.docketbird.com
Daniel L. Wilder	on behalf of Creditor Buzzini L.P. dwilder@goodmanlaw.org bkydept@goodmanlaw.org;bkydept5@goodmanlaw.org
Diane Sanders	on behalf of Creditor Victoria County diane.sanders@lgbs.com austin.bankruptcy@lgbs.com
Diane Sanders	on behalf of Creditor Nueces County diane.sanders@lgbs.com austin.bankruptcy@lgbs.com
Diane Sanders	on behalf of Creditor Hidalgo County diane.sanders@lgbs.com austin.bankruptcy@lgbs.com
Diane Sanders	on behalf of Creditor City of McAllen diane.sanders@lgbs.com austin.bankruptcy@lgbs.com
Douglas M Eppler	on behalf of Creditor UG2 Solon OH, LP deppler@walterhav.com
Dustin P. Branch	on behalf of Creditor CP Venture Five - AWC LLC branchd@ballardspahr.com, carolod@ballardspahr.com
Dustin P. Branch	on behalf of Creditor Belden Mall LLC branchd@ballardspahr.com carolod@ballardspahr.com
Dustin P. Branch	on behalf of Creditor TM/Alto 5000 S Hulen LLC branchd@ballardspahr.com, carolod@ballardspahr.com
G. Frank Nason, IV	on behalf of Creditor Alterman-Town Center LLC fnason@lcnlaw.com, NasonFR86494@notify.bestcase.com;rstuder@lcnlaw.com
Gary W. Marsh	on behalf of Creditor PMOF Special Situations Private Credit Fund LLC gary.marsh@troutman.com wlbank@troutman.com
Heather D. Brown	on behalf of Creditor KDI Atlanta Mall LLC heather@hdbrownlaw.com
Jacob A. Maurer	on behalf of Creditor Momentum Telecom Inc. jmaurer@brawwlaw.com, cbastos@brawwlaw.com
Jarrold B. Martin	on behalf of Creditor Kagan Realty Investors Inc. jarrod.martin@chamberlainlaw.com, lara.coleman@chamberlainlaw.com
Jason L Pettie	on behalf of Trustee Jason L. Pettie jpettie@taylorenghish.com
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John McDonald	on behalf of Creditor Tailwind 1861 Adams LLC jmcdonald@taftlaw.com

District/off: 113E-9  
Date Rcvd: Nov 03, 2023

User: bncadmin  
Form ID: pdf429

Page 3 of 5  
Total Noticed: 20

Jon Stautberg	on behalf of Creditor Buzzini L.P. jmslaw@att.net
Jon Stautberg	on behalf of Creditor BOKF NA d/b/a Bank of Texas jmslaw@att.net
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Ronald E. Gold	on behalf of Creditor WPG Legacy LLC rgold@ftlaw.com, awebb@ftlaw.com
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Tara L. Grundemeier	

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Page 4 of 5

Date Rcvd: Nov 03, 2023

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Page 5 of 5

Date Rcvd: Nov 03, 2023

Form ID: pdf429

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nextchapterbk.com;willgeer@ecf.courtdrive.com;emiller@rlkglaw.com;emillerrlg@ecf.courtdrive.com

TOTAL: 70